

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 252011-2130			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____	Application Number 10/810,932	Filed 3-26-2004			
	First Named Inventor Yao-Chin Lee				
	Art Unit 3651	Examiner Prakasam, Ramya G			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding-bottom: 10px;"><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input checked="" type="checkbox"/> attorney or agent of record. 38,962 Registration number _____</p><p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p></td><td style="width: 50%; vertical-align: top; padding-bottom: 10px; text-align: center;"><p>_____ /Daniel R. McClure/ _____ Signature Daniel R. McClure _____ Typed or printed name 770-933-9500 _____ Telephone number July 30, 2008 _____ Date</p></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. 38,962 Registration number _____</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>	<p>_____ /Daniel R. McClure/ _____ Signature Daniel R. McClure _____ Typed or printed name 770-933-9500 _____ Telephone number July 30, 2008 _____ Date</p>
<p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. 38,962 Registration number _____</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>	<p>_____ /Daniel R. McClure/ _____ Signature Daniel R. McClure _____ Typed or printed name 770-933-9500 _____ Telephone number July 30, 2008 _____ Date</p>				
<table style="width: 100%; border: none;"><tr><td style="width: 50%;"><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</td><td style="width: 50%;"></td></tr></table>				<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.	
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.					

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:)
Po Hsiung Liang) Confirmation No. 1909
)
Serial No.: 10/810,932) Examiner: Prakasam, Ramya G
) Group Art Unit: 3651
Filed: March 26, 2004)
) TKHR Docket No. 252011-2130
For: System and Method Providing Control) Top-Team ref. 0503-A30085US
Of Reticle Stocking and Sorting)
)

REMARKS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop Appeal
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Claims 1, 3-9, 11-18, and 20 stand FINALLY rejected under 35 U.S.C. 103 as allegedly unpatentable over Okabe (US Patent. No. 6,535,778) in view of Wiesler (US Patent Application Publication No. 2001/0047222). For at least the reasons set forth below, Applicant submits that these rejections are fundamentally misplaced and that they should be overturned.

Independent claim 1 recites:

1. A tool stocking and sorting system, comprising:
first tool storage storing a first tool currently in use;
second tool storage storing a second tool not currently in use;
third tool storage serving as an outlet for a third tool not in use;
and
a host system adapted to re-locate the first, second, and third tools among the first, second, and third storage as a function

***of demand data pertaining to a product corresponding to the
respective tool,
wherein the tool is a reticle.***

(*Emphasis Added*). Claim 1 patently defines over the cited art for at least the reason that the cited art fails to disclose the features emphasized above.

“Lots” taught by Okabe are not the “tools” of the Claimed Embodiments

The Advisory Action (mailed July 24) stated that the lots of Okabe can be construed as tools because they are used to do work or perform a task. Applicant disagrees, and notes that the statements cannot be properly supported by the teachings of Okabe. Further, such statements even go against common sense.

Okabe states: “Each lot consists of plural semiconductor wafers” (Okabe, col. 6, lines 4-5) and “lot (hereinafter referred to as product)” (Okabe, col. 2, line 18). Thus, the lots taught by Okabe are actually semiconductor wafers, and the lots are referred to as products.

None of the terms used in Okabe (e.g., lot, semiconductor wafers, or product) can be properly interpreted as “implement used to do work or perform a task” in semiconductor manufacturing, as required by the claims of the present application. Indeed, the Examiner’s interpretation of the terms as such reflects clear and improper hindsight application of Okabe to the presently pending claims.

In addition, the lot (referred to as semiconductor wafer or product) taught by Okabe is the subject matter that is actually being processed; while the tool (reticle) taught in the claimed embodiments is used during process procedures, but not being processed itself, and can be reused repeatedly. The fact that a reticle is used as a tool

in semiconductor manufacturing and that a reticle is used repeatedly are common sense to one of ordinary skill in the art. Indeed, to one of ordinary skill in the art, the described features of tool (reticle) are implied in the claim language “reticle”. For at least this reason, the application of Okabe to the claims is fundamentally misplaced and should be overturned.

Okabe does not disclose three distinct tool storages of claim 1

In addition, the Advisory Action states that the hold stocker of Okabe discloses the third tool storage of claim 1. Applicant disagrees.

In this regard, Applicant notes that Okabe does not disclose the three distinct tool storages of claim 1 (i.e. the “first tool storage”, “second tool storage”, and “third tool storage” of claim 1). Instead, in Column 2, lines 44-52, and Fig. 9, Okabe teaches “a hold stocker for holding each lot in a standby state.” In addition, in lines 48-50, Okabe teaches “a pre-treatment processing equipment for pre-treating each lot brought out from said hold stocker on the basis of standby release order”.

According to Okabe, the hold stocker stores each and every lot, which is to be processed by the pre-treatment processing equipment. On the contrary, the “third tool storage” of the claimed embodiments is used to store tools not in use. The lots stored in the hold stocker of Okabe, however, are in “a standby state”, and are going to be treated by the pre-treatment processing equipment on the basis of standby release order. To one skilled in the art, “a hold stocker for holding each lot in a standby state” does not disclose the technical features of the three tool storages storing reticles in different usage status (*i.e.*, currently in use, not currently in use, and not in use).

Accordingly, to one skilled in the art, the hold stocker of Okabe does not disclose three distinct tool storages of claim 1. For at least this independent reason, the claim rejections should be overturned.

Okabe does not disclose the host system of claim 1

Further still, the Advisory Action states that Okabe discloses the host system of claim 1. Applicant notes that Okabe does not disclose “a host system (11) adapted to re-locate the first, second, and third tools among the first, second, and third storages as a function of demand data pertaining to a product corresponding to the respective tool” of claim 1.

In column 8, lines 32-34, Okabe teaches a FA computer and equipment control terminal 16. The FA computer 11 comprises a reference information storage section 13, a product in-process information storage section 14, a collected data storage section 15, and an arithmetic unit control section 12. The FA computer 11 processes data, rather than “re-locating” tools among distinct storages in the manufacturing process. Accordingly, the FA computer 11 does not disclose “host system” of claim 1.

Accordingly, teachings of Okabe and Wiesler do not suggest all features of the claim 1 to one of ordinary skill in the art. Therefore, the rejection of claim 1 should be withdrawn.

On the same basis as claim 1, the rejections of independent claims 9 and 16 should also be overturned. As all remaining claims depend from either claim 1, claim 9, or claim 16, all rejections should be overturned for the same reasons. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

A credit card authorization is provided to cover the fee associated with the accompanying Notice of Appeal. No additional fee is believed to be due in connection with this submission. If, however, any fee is believed to be due, you are hereby authorized to charge any such fee to deposit account No. 20-0778.

Respectfully submitted,

/Daniel R. McClure/

Daniel R. McClure
Reg. No. 38,962

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.
600 Galleria Pkwy, SE
Suite 1500
Atlanta, GA 30339
(770) 933-9500